

ARC

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCTNOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT
OR THE DECLARATION

(PCT Rule 44.1)

To:

NIXON & VANDERHYE P.C.
Attn. CRAWFORD, Arthur R.
1100 North Glebe Road
Suite 800
Arlington, Virginia 22201-4714
UNITED STATES OF AMERICA

*Apr 21, 2001
Docketed since
Dead is due & what day.
(H)*

Date of mailing
(day/month/year)

26/03/2001

Applicant's or agent's file reference

121-239

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

PCT/US.00/25880

International filing date
(day/month/year)

21/09/2000

Applicant

RTP PHARMA INC.

1. ☒ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland
Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within **19 months** from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within **20 months** from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
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Authorized officer

Jaap Hurenkamp

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 121-239	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/US 00/ 25880	International filing date (day/month/year) 21/09/2000	(Earliest) Priority Date (day/month/year) 21/09/1999
Applicant RTP PHARMA INC.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 5 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :



contained in the international application in written form.



filed together with the international application in computer readable form.



furnished subsequently to this Authority in written form.



furnished subsequently to this Authority in computer readable form.



the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.



the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☒ **Certain claims were found unsearchable** (See Box I).

3. ☐ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.



as suggested by the applicant.



because the applicant failed to suggest a figure.



because this figure better characterizes the invention.



None of the figures.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 00/25880

A. CLASSIFICATION OF SUBJECT MATTER
 IPC 7 A61K9/14 A61K9/107

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, BIOSIS, EMBASE, CHEM ABS Data

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 99 29300 A (MISHRA AWADHESH K ;PARIKH INDU (CA); MOUSSA ISKANDAR (CA); RTP PHA) 17 June 1999 (1999-06-17) the whole document	2,3,5, 8-14
X	WO 99 29316 A (MISHRA AWADHESH K ;MOUSSA ISKANDAR (CA); CLARKE NUALA M (IE); CYCL) 17 June 1999 (1999-06-17) the whole document	2,3,5, 8-14
X	US 5 827 822 A (FLOC H ROBERT ET AL) 27 October 1998 (1998-10-27) the whole document	2,8-14
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☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

° Special categories of cited documents:

A document defining the general state of the art which is not considered to be of particular relevance

E earlier document but published on or after the international filing date

L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

O document referring to an oral disclosure, use, exhibition or other means

P document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

& document member of the same patent family

Date of the actual completion of the international search

16 March 2001

Date of mailing of the international search report

26/03/2001

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
 NL - 2280 HV Rijswijk
 Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
 Fax: (+31-70) 340-3016

Authorized officer

Marttin, E

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 5 091 187 A (HAYNES DUNCAN H) 25 February 1992 (1992-02-25) cited in the application column 7, line 48 -column 8, line 44 column 9, line 50 -column 10, line 19 column 11, line 14 -column 12, line 61 column 16, line 60 -column 17, line 48; claims; examples 5,6; tables 2,3 ----	1,3-6, 8-14
X	US 5 560 931 A (EICKHOFF W MARK ET AL) 1 October 1996 (1996-10-01) the whole document ----	1,3-6,8, 9,11,13, 14
X	US 4 801 455 A (LIST PAUL H ET AL) 31 January 1989 (1989-01-31) the whole document ----	1,3-6,8, 9,13,14
X	GB 1 527 638 A (BAYER AG) 4 October 1978 (1978-10-04) the whole document ----	1,3,4,6, 8,9,14
P,X	WO 00 40219 A (DEXCEL LTD ;DOMB ABRAHAM J (IL)) 13 July 2000 (2000-07-13) the whole document ----	2,3,8-14
P,X	US 6 057 289 A (MULYE NIRMAL) 2 May 2000 (2000-05-02) cited in the application the whole document ----	2-5,8-14
P,X	WO 99 49848 A (RTP PHARMA INC) 7 October 1999 (1999-10-07) the whole document ----	2-5,8-14
P,X	WO 00 10531 A (RTP PHARMA INC) 2 March 2000 (2000-03-02) the whole document ----	2-5,8,9, 13,14
P,X	WO 00 41682 A (LG CHEMICAL LIMITED ;KIM MYUNG JIN (KR); KIM SUN JIN (KR); KWON KY) 20 July 2000 (2000-07-20) cited in the application page 5, line 10 - line 21 page 6, line 1 - line 19 page 7, line 16 - line 31 page 8, line 10 -page 10, line 16 claims 1-3,5-7,11-15,17-20; example 20; table 2 -----	1,3-5, 8-14

FURTHER INFORMATION CONTINUED FROM PCT/SA/ 210

Continuation of Box I.2

Present claims 1-15 relate to an extremely large number of possible compositions, non-aqueous media, surfactant systems and hydrophilic substances. Support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT is to be found, however, for only a very small proportion of the compositions, non-aqueous media, surfactant systems and hydrophilic substances claimed. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful search over the whole of the claimed scope is impossible. Consequently, the search has been carried out for those parts of the claims which appear to be supported and disclosed, namely those parts relating to the compositions prepared in the examples, and to the non-aqueous media, surfactant systems and hydrophilic substances disclosed in the examples on pages 22-28, and to the general concepts of "non-aqueous media", "surfactant systems" and "hydrophilic substances".

The applicant's attention is drawn to the fact that claims, or parts of claims, relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 00/25880

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:
because they relate to subject matter not required to be searched by this Authority, namely:

2. ☒ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:

see FURTHER INFORMATION sheet PCT/ISA/210

3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.

2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.

3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:

4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 00/25880

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9929300 A	17-06-1999	AU 1809499 A	28-06-1999
		AU 1817499 A	28-06-1999
		EP 1039893 A	04-10-2000
		NO 20002991 A	09-08-2000
		WO 9929316 A	17-06-1999
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		AU 1817499 A	28-06-1999
		EP 1039893 A	04-10-2000
		NO 20002991 A	09-08-2000
		WO 9929300 A	17-06-1999
US 5827822 A	27-10-1998	AU 2219097 A	17-10-1997
		AU 709548 B	02-09-1999
		AU 6644196 A	19-03-1997
		BG 62875 B	31-10-2000
		BG 101443 A	31-03-1998
		BR 9606603 A	30-09-1997
		CA 2202887 A	06-03-1997
		CN 1164828 A	12-11-1997
		CZ 9701248 A	17-09-1997
		DE 789561 T	10-06-1999
		EP 0789561 A	20-08-1997
		ES 2129381 T	16-06-1999
		HU 9801052 A	28-09-1998
		JP 3009742 B	14-02-2000
		JP 10509462 T	14-09-1998
		NO 971890 A	24-04-1997
		PL 319898 A	01-09-1997
		SI 9620014 A	30-04-1998
		SK 53697 A	08-10-1997
		WO 9707787 A	06-03-1997
		WO 9735603 A	02-10-1997
US 5091187 A	25-02-1992	US 5091188 A	25-02-1992
		AT 181234 T	15-07-1999
		AU 7852891 A	11-11-1991
		CA 2078990 A	27-10-1991
		DE 69131349 D	22-07-1999
		DE 69131349 T	18-11-1999
		DK 533690 T	22-11-1999
		EP 0533690 A	31-03-1993
		ES 2134776 T	16-10-1999
		GR 3030825 T	30-11-1999
		IN 173056 A	05-02-1994
		KR 159114 B	01-12-1998
		MX 25532 A	01-10-1993
		RU 2100030 C	27-12-1997
		WO 9116068 A	31-10-1991
		US RE35338 E	24-09-1996
		US 5246707 A	21-09-1993
		ZA 9103122 A	29-04-1992
US 5560931 A	01-10-1996	AT 198148 T	15-01-2001
		AU 4862796 A	27-08-1996
		CA 2207304 A	15-08-1996
		DE 69611287 D	25-01-2001
		EP 0808154 A	26-11-1997

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 00/25880

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 5560931 A		JP 10513200 T	15-12-1998
		WO 9624332 A	15-08-1996
US 4801455 A	31-01-1989	DE 3623376 A	21-01-1988
		AT 61730 T	15-04-1991
		AU 597688 B	07-06-1990
		AU 7553687 A	14-01-1988
		CA 1302257 A	02-06-1992
		DE 3768734 D	25-04-1991
		DK 359787 A	12-01-1988
		EP 0256285 A	24-02-1988
		ES 2039214 T	16-09-1993
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		GR 3001710 T	23-11-1992
		JP 63023811 A	01-02-1988
		PT 85292 A,B	01-08-1987
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		AU 503449 B	06-09-1979
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		FR 2335204 A	15-07-1977
		NL 7614155 A	22-06-1977
		NZ 182909 A	20-09-1978
		ZA 7607506 A	30-11-1977
WO 0040219 A	13-07-2000	AU 1796200 A	24-07-2000
US 6057289 A	02-05-2000	AU 4681200 A	17-11-2000
		WO 0066140 A	09-11-2000
WO 9949848 A	07-10-1999	AU 3377099 A	18-10-1999
		EP 1067908 A	17-01-2001
		SE 0003449 A	23-11-2000
WO 0010531 A	02-03-2000	AU 5570599 A	14-03-2000
WO 0041682 A	20-07-2000	AU 3080500 A	01-08-2000
		BR 0004152 A	21-11-2000
		EP 1071407 A	31-01-2001